IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 504 of 2001
(Old No. 63 of 1983)

State of U.P.

…..……. Appellant

Versus

Dev Dass
S/o Surnedra Prakash
1, Chakrata Raod, Dehradun.

……. Claimant Respondent

Mr. R.C. Arya, Standing Counsel for the appellant-State.
Mr. Rajendra Dobhal, Advocate for the claimant respondent.

Hon'ble Prafulla C. Pant, J.

This appeal, preferred under Section 54 of the Land Acquisition Act, 1894, is directed against the judgment and order dated 21.08.1982 passed by learned District Judge, Dehradun, whereby the compensation of the land acquired has been increased by 25% of the compensation assessed by the Special Land Acquisition Officer.

2) The Land in question measuring 1.55 acres, which is part of 5.292 acres, situate in Village Chukhuwala, Tehsil and District Dehradun was acquired by the State for construction houses of employees working in Lakhwar Vyasi irrigation scheme. A notification under Section 4 of the Land Acquisition Act, 1984 was issued on 19.11.1976 and published in the Gazette on 11.12.1976, followed by notification dated 26.12.1976 under Section 6 of the Act which was published in the Gazette on 29.11.1977. Possession of the land was taken by the State on 17.05.1977.

The Special Land Acquisition Officer assessed the market value of the land acquired at the rate of Rs. 63,157.89 per acre but reduced it by 25% on account of the fact that the area acquired is large and, as such, assessed the compensation at the rate of Rs. 47,368.41 per acre. Solatium at the rate of 15% and interest at the rate of 6% per annum from the date of possession was also directed to be paid. However, the claimant – respondent was not satisfied and filed objections against the assessment on which a reference was made to the District Judge, Dehradun under Section 18 of the aforesaid Act. The learned District Judge framed following three issues in the reference case:

i) Whether the compensation awarded by the Special Land Acquisition Officer is inadequate and unreasonable?

ii) To what amount, if any, are the claimants entitled?

iii) Whether Sri Surendra Prakash is not entitled to the compensation or making reference as alleged?

3) As far as Sri Surendra Prakash is concerned, his case is note before this Court, in this appeal. This appeal is directed in respect of the award passed in favour of Dev Dass only.

4) Heard learned counsel for the parties.

5) Learned Standing Counsel argued that the District Judge was wrongly increased the compensation by 25% over the sum assessed by the Sepcial Land Acquisition Officer. He further argued that the areas acquired was large and Special Land Acquisition Officer was right in reducing the marked rate by 25% on this account. I do not see any force

in the contention. Out of the total land acquired, land of respondent Dev Dass is only 1.55 acres. It is pertinent to mention here that the market rate assessed at Rs. 63,157.89 per acre by the Special Land Acquisition Officer has not been disputed by any party. What is in dispute is reduction by 25% by the Special Land Acquisition Officer, which was not accepted by the reference court below. Perusal of the record shows that for assessing the market value at Rs. 63,157.89 per acre, out of the 20 sale deeds filed, the exemplar sale deed of 1973 was taken into consideration. Needless to say, that the land was acquired in the year 1976 i.e. after more than three years. The learned reference court has rightly taken into consideration the fact that there is no reason to doubt that there must had been escalation of price since 1973 to 1976 regarding which the Special Land Acquisition Officer has not mentioned anything In his award. As such, this Court is in full agreement with the court below that reduction in market value by 25% on the market value of Rs. 63,157.89 per acre by the Land Acquisition Officer was unjustified. I see no error either of the fact or that of the law in the impugned judgment and order passed by the District Judge, Dehradun.

6) For the reasons discussed above, this Court is of the view that there is no reason to interfere with the impugned judgment and order dated 21.08.1982 passed by the learned District Judge, Dehradun. Accordingly, the appeal is liable to be dismissed. The appeal is dismissed. Costs easy.

(Prafulla C. Pant, J.)

Dt. 13th February, 2006.
H.Negi